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In re Application of

OFFICE OF PETITIONS

Cahoon, et al.

Application No. 09/807,946

DECISION ON PETITION

Filed: April 20, 2001

Attorney Docket No. **BB1410PCT**

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned on September 23, 2004, for failure to file a proper response to the non-final Office action mailed September 23, 2004. The non-final Office action set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on December 24, 2004. A Notice of Abandonment was mailed on May 19, 2005.

The above-identified application had been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See *Changes to Patent Practice and Procedure*, 62 Fed. Reg. at 53160 and 53178.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and *Changes to Patent Practice and Procedure*; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due


date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The amendment filed November 30, 2005, is noted.

The application is being directed to Technology Center 1600, GAU 1638 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.


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